IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WA.No. 2403 of 2007

(AGAINST THE JUDGEMENT IN WPC.8028/2007 Dated 26/03/2007)

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APPELLANTS/PETITIONERS:

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1. M.SREEKUMAR,
   B-18, RAJAHAMAAM,
   KOWDIAR,
   THIRUVANANTHAPURAM.

2. C.RAMACHANDRAN,
   KALPAKAVADI,
   KOMALESWARAM,
   VALIYAVEEDU LINE,
   MANACAUDU P.O.
   THIRUVANANTHAPURAM.

BY ADV. SRI. .SERGI JOSEPH THOMAS

RESPONDENTS/RESPONDENTS:

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1. THE STATE OF KERALA,
   REPRESENTED BY THE SECRETARY
   TO GOVERNEMNT, WATER RESOURCES
   DEPARTMENT,
   GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM.

2. THE CHIEF ENGINEER,
   IRRIGATION, PUBLIC OFFICE BUILDING,
   TRIVANDRUM.

3. THE SUPERINTENDING ENGINEER,
   IRRIGATION, SOUTH CIRCLE,
   TRIVANDRUM.

4. G.VIDYADHARAN,
   KALPAKAVADI,
   BALARAMAPURAM,
   THIRUVANANTHAPURAM.

5. K.VIJAYAN,
   VIJAYA BHAVAN,
   MENAMKULAM, KAZHAKUTTAM,
   THIRUVANANTHAPURAM.

6. T.VINOD KUMAR,
   VINOD BHAVAN,
   POONTHI ROAD,
   KUMARAPURAM,
   THIRUVANANTHAPURAM.

7. K.V.SOORAJKUMAR,
   DHANYA,
   OORUTTUKALA,
   NEYYATTINKARA P.O.,
   THIRUVANANTHAPURAM.

8. G.KRISHNANKUTTY,
   DHANYA,
   OORUTTUKALA,
   NAYYATTINKARA,
   THIRUVANANTHAPURAM.

BY SENIOR GOVERNMENT PLEADER SMT.MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.2403 of 2007

Dated, this the 5th day of October, 2007

JUDGMENT

H.L.Dattu, C.J.

Petitioners are A Class contractors. In the writ petition filed, they have sought for quashing of the proceedings for finalization of the contract said to be held on 4.1.2007 and 8.1.2007. The other relief in the writ petition was to direct respondents 1 to 3 to re-tender the whole works in a transparent manner.

2. The learned Single Judge has rejected the writ petition on two grounds. Firstly, the petitioners had not participated in the tender process and therefore at their instance the proceedings held for finalising the contract pursuant to the tender notification issued cannot be quashed. Secondly, if for any reason, the respondents had refused to furnish tender forms to the petitioners, they should have lodged an appropriate complaint before the superior authorities. When that has not been done by the petitioners, according to the learned Single Judge, the petitioners are not entitled to any of the reliefs sought for in the writ petition.

3. Questioning the correctness or otherwise of the aforesaid conclusions reached by the learned Single Judge, the petitioners are before us in this writ appeal.

4. Even before us, the learned counsel appearing for the appellants is not in a position to demonstrate that the appellants have participated in the tender process by submitting the tender forms. The appellants have not even produced before us any document to show that though a request was made for furnishing tender forms, the respondents had refused to do the same. Since

the appellants had not participated in the tender process, in our opinion, they cannot question the finalization of the contract that would be awarded pursuant to the tender notification.

5. These are the aspects which were kept in view by the learned Single Judge while rejecting the writ petition. In our opinion, the reasoning and conclusion reached by the learned Judge is neither erroneous nor capricious. Therefore the writ appeal requires to be rejected and it is rejected.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns